



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	<u>STIPULATION AND ORDER</u>
	:	
- v -	:	05 Cr. 1280 (KMK)
	:	
VITO FORESTIER,	:	
	:	
Defendant.	:	
-----X	:	

WHEREAS, on or about December 1, 2005, VITO FORESTIER (the "defendant"), was charged in a two-count Indictment, 05 Cr. 1280 (KMK), with possessing heroin with the intent to distribute, in violation of 21 U.S.C. §§ 812, 841(a)(1) and 841(b)(1)(C) (Count One), and possessing a firearm in furtherance of drug trafficking, in violation of 18 U.S.C. § 924(c) (Count Two);

WHEREAS, the Indictment included a forfeiture allegation seeking, pursuant to 21 U.S.C. § 853, any and all property constituting or derived from any proceeds the said defendant obtained directly or indirectly as a result of the offense in Count One of the Information;

WHEREAS, on or about February 13, 2007, following a jury trial, VITO FORESTIER, the defendant, was found guilty of both Counts in the Indictment;

WHEREAS, on or about April 23, 2007, the Court entered a Preliminary Order of Forfeiture/Final Order of Forfeiture as to

Defendant Vito Forestier's Interest in \$19,000 in Cash, forfeiting the defendants' right, title and interest in \$19,000 in United States currency;

WHEREAS, notice of this action was also published in the New York Law Journal in each of three successive weeks, beginning on May 21, 2007;

WHEREAS, no other party has claimed an interest in the \$19,000 in U.S. currency;

WHEREAS, the parties have reached an agreement in the pending matter and wish to settle without resort to further litigation;

IT IS HEREBY STIPULATED AND AGREED, by and between the defendant, VITO FORESTIER, by his attorney Roland Thau, and the United States of America, by its attorney, Michael J. Garcia, United States Attorney, and Brendan R. McGuire, Assistant United States Attorney, that:

1. The Government agrees to return \$9,500.00 in United States currency to the defendant.

2. It is agreed that all right, title, and interest in the balance of the currency, \$9,500.00, shall be forfeited to the United States for disposition according to law.

3. Upon execution of this Stipulation and Order by all parties and the Court, the United States of America shall cause a check to be issued in the amount of \$9,500.00 payable to VITO

FORESTIER, and mailed to his attorney, Roland Thau, Esq., Federal Defenders of New York, Inc., 52 Duane Street, 10th Floor, New York, NY 10007.

4. The defendant is hereby barred from asserting any claim against the United States or any of its agents and employees, including, but not limited to, the United States Marshals Service, and the United States Attorney's Office for the Southern District of New York, the New York City Police Department, or the Drug Enforcement Administration, in connection with, or arising out of the seizure, arrest, and possession of the currency, including but not limited to any claim that any law enforcement officer or agency did not have probable cause to seize and hold the currency.

5. The defendant further agrees to hold harmless the United States and any and all of the United States' agents and employees, including but not limited to the United States Marshals Service, and the United States Attorney's Office for the Southern District of New York, the New York City Police Department, or the Drug Enforcement Administration, from any and all claims, including third-party claims, in connection with, or arising out of, the seizure, possession, and return of the currency.

6. Furthermore, the parties hereby waive all rights to appeal or to otherwise challenge or contest the validity of this Stipulation and Order.

Dated: New York, New York
August 20, 2007

AGREED AND CONSENTED TO:

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for the Plaintiff

By: B. McGuire
Brendan McGuire
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
Tel. No. (212) 637-2220

8/20/07
DATE

R. Thau
Roland Thau
Attorney for Vito Forestier
Federal Defenders of New York
52 Duane Street, 10th Floor
New York, New York 10007
Tel. No. (212) 417-8700

8/20/07
DATE

SO ORDERED:

K. M. Karas
HONORABLE KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE

9/28/07
DATE